

Air Toxics SIT

Executive Board Progress Report

March 14, 2018

Non-Responsive

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Challenges Encountered or Anticipated

- R1: The change to the OIAI policy resulted in questions from their states about how the policy change is supposed to work, looking for clarity on permit changes. May also affect the level of injunctive relief in a number of cases, including our TSD cases.
 - R1: with minor source permits possibly falling out of the state CMS, that the region may want to create their own list of those facilities for targeting purposes.
 - R1: coordination of outreach and compliance assistance with program offices or other offices outside of the enforcement office. Depending on how the region is organized, communication may be difficult if folks are in different offices.
 - R1: A significant challenge to industry and regulators is a lack of understanding of how potential to emit is calculated in a given sector and therefore, confusion regarding which facilities are major, true minors, or need an enforceable permit to restrict. Often, there is no guidance beyond the underlying definitions in Section 112 and the general provisions. Sector based guidance would be extremely helpful, e.g., with storage tanks. This will be even more important given the changes to the OIAI policy because state permitting authorities are now faced with numerous requests to issue permits to restrict PTE. In order to be a federally enforceable limitation, the limit on PTE needs to be practically enforceable which will mean throughput limits or control device parameter limits, not just emission totals. In order to develop the correct throughput or parameter limits, industry and permit writers need updated guidance on how to develop these limits. There were numerous guidance documents issued around the same time as the OIAI policy and those should be reviewed and re-issued. We've learned a lot since then.
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- R3 – States are receiving permit change requests based on Once in Always in Memo and looking for guidance.
 - R3 – Changes in Injunctive Relief in other cases in same Sector that effect negotiations already in progress. Makes it difficult to settle cases that may have been in the final stages of settlement.
 - R3 – Emission calculations for batch operations, additional guidance needed, even more so given changes to once in always in.
 - R5 – Region 5's level of engagement has been strong. Technical leadership for the nation was provided in whole or in part by Region 5. In terms of specific challenges, the memo rescinding the Once in Always in policy is impacting approximately 17 of Region 5's open Air Toxics cases by limiting or eliminating the injunctive relief and/or mitigation that would be otherwise sought.

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Questions?